

FILED

AUG 25 2008

RICHARD W. WIEKING  
CLERK, U.S. DISTRICT COURT,  
NORTHERN DISTRICT OF CALIFORNIA

1 JAHIR A. ROJAS #P58734  
2 CSP.CORCORAN 4A:4R #13  
3 P.O BOX 3476  
4 CORCORAN, CA 93212-3476  
PLAINTIFF, IN PRO PER

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7  
8 UNITED STATES DISTRICT COURT  
9 FOR THE NORTHERN DISTRICT OF CALIFORNIA  
10 — SAN FRANCISCO DIVISION —

11 JAHIR A. ROJAS, /  
12 PLAINTIFF,  
13 VS.  
14 R. LOZA; ET AL.,

(CASE NO. C07-4662 MMC(PR)  
DECLARATION OF JAHIR ROJAS  
IN SUPPORT OF PLAINTIFF'S  
OPPOSITION TO DEFENDANTS  
MOTION FOR DISMISSAL, AND  
MOTION FOR QUALIFIED IMMUNITY.

15 DEFENDANTS

16 I, JAHIR A. ROJAS, DECLARE AS FOLLOWS:

17 1. I AM A PRISONER OF THE CALIFORNIA DEPARTMENT OF CORRECTIONS AT CALIFORNIA  
18 STATE PRISON CORCORAN. I AM THE PLAINTIFF IN THIS ACTION. I AM COMPETENT TO  
19 TESTIFY TO THE MATTERS SET FORTH HEREIN, AND IF CALLED UPON TO DO SO, I WOULD AND  
20 COULD SO TESTIFY. I SUBMIT THIS DECLARATION IN SUPPORT OF PLAINTIFF'S  
21 OPPOSITION TO DEFENDANTS' MOTION FOR DISMISSAL, AND FOR QUALIFIED IMMUNITY.  
22 2. ON THE DATE OF FEBRUARY 12, 2007 I WAS A PRISONER AT SALINAS VALLEY  
23 STATE PRISON AND WAS ASSAULTED BY ABOVE SAID DEFENDANTS.  
24 3. ON THE DATE OF FEBRUARY 12, 2007, PLAINTIFF WAS AWAITING YARD TOWER  
25 INSTRUCTIONS TO RECALL FAC. "C" YARD AND CALL PLAINTIFF'S BUILDING. WHILE  
26 AWAITING, YARD TOWER ANNOUNCED FOR ALL INMATES TO PRONE OUT ON THE  
27 GROUND. CORRECTIONAL OFFICERS PROCEEDED TO FORM A SCRIMMAGE LINE, AND BEGAN  
28 TO INSTRUCT INMATES TO CRAWL BACKWARDS TOWARDS THE SCRIMMAGE LINE, WHERE

1. HANCOUFFED INMATES AND PLACED THEM AWAY FROM SCRIMMAGE LINE.  
 2. 4. WHEN IT CAME TIME TO PLACE RESTRAINTS ON PLAINTIFF, PLAINTIFF YELLED  
 3. OUT TO CORRECTIONAL OFFICERS THAT HE COULD NOT CRAWL BACKWARDS THE  
 4. ESTIMATED TO FT THEY WERE DEMANDING OF HIM, DUE TO HIS PROBLEMATIC RIGHT KNEE.  
 5. 5. PLAINTIFF ATTEMPTED TO STAND UP AND WALK TOWARDS SCRIMMAGE, WAS  
 6. IMMEDIATELY INSTRUCTED TO "GET DOWN", PLAINTIFF COMPLIED WITH ORDER.  
 7. 6.) PLAINTIFF WAS FURTHER INSTRUCTED TO LIE FACE DOWN, AND PLACE HIS  
 8. HANDS ON HIS SIDE. HE COMPLIED.  
 9. 7.) WHEN DEFENDANTS R. LOZA AND R. SINGH APPROACHED PLAINTIFF  
 10. WHERE HE LAY, DEFENDANT R. LOZA THRUSTED HIS KNEE INTO PLAINTIFF'S BACK  
 11. CAUSING HIM TO LOSE HIS BREATH. DEFENDANT LOZA THEN PROCEEDED TO  
 12. LIFT PLAINTIFF OFF GROUND BY FLEXCUFFS. (PRIOR TO LIFTING PLAINTIFF UP,  
 13. DEFENDANT LOZA PLACED FLEXCUFFS ON PLAINTIFF IN A MANNER WHERE  
 14. IT IMMEDIATELY CUT OFF SENSATION TO HANDS)  
 15. 8.) WHEN DEFENDANTS R. LOZA AND R. SINGH, INITIATED TO TRANSPORT PLAINTIFF  
 16. TOWARD SCRIMMAGE LINE, PLAINTIFF MADE SUFFOCATED PLEADINGS TO DEFENDANTS  
 17. FOR THEM TO "STOP JERKING" HIM, BUT DEFENDANTS IGNORED PLAINTIFF'S  
 18. PLEADINGS, AND DUE TO THEIR JERKINGS CAUSED PLAINTIFF TO LOSE HIS FEETING.  
 19. 9.) AT THIS TIME DEFENDANTS LOZA AND SINGH SLAMMED PLAINTIFF TO THE GROUND  
 20. WHERE PLAINTIFF LANDED ON HIS LEFT SHOULDER.  
 21. 10. DEFENDANT R. LOZA THEN DEPLOYED OLEORESIN CAPSICUM PEPPER SPRAY ON  
 22. PLAINTIFF'S UPPER TORSO. THIS WHILE PLAINTIFF LAY ON HIS STOMACH IN AN  
 23. UNRESISTIVE MANNER.  
 24. 11. AT THIS TIME DEFENDANTS R. LOZA AND D. SANTOVAL PROCEEDED TO  
 25. ESCORT PLAINTIFF OFF FAC "E" YARDS, TOWARDS FAC "E" YARDS HEALTH ANNEX.  
 26. 12. ONCE INSIDE HEALTH ANNEX DEFENDANTS R. LOZA AND D. SANTOVAL  
 27. RAMMED PLAINTIFF INTO A WALL, AND COMMENCED TO ASSAULT HIM  
 28. WITH CLENCHED FISTS AND FEET, ALL WHILE PLAINTIFF REMAINED SECURED

1 WITH HIS HANDS FLEXCUFFED TO THE REAR OF HIM.  
 2 13.) PLAINTIFF WAS THEN SWUNG TOWARDS A TABLE CAUSING  
 3 HIS CHEST TO SLAM ON TOP OF IT. DEFENDANTS LOZA  
 4 AND SANDOVAL CONTINUED THEIR WILTON ASSAULT BY SADIS-  
 5 ICALLY AND MALICIOUSLY PUNCHING AND KICKING PLAINTIFF  
 6 HEAD, FACE AND TORSO UNTIL A "JOHN DOE" CORRECTIONAL OFFICER  
 7 INTERVENED AND PUSHED DEFENDANT R. LOZA OFF OF PLAINTIFF,  
 8 CAUSING DEFENDANT SANDOVAL TO DESIST HIS ASSAULT ON  
 9 PLAINTIFF ROJAS.  
 10 14.) THE "JOHN DOE" BEGAN TO SHOUT TO BOTH DEFENDANTS, "NOT  
 11 RIGHT HERE STUPID MOTHERFUCKERS, NOT RIGHT HERE!"  
 12 15.) PLAINTIFF WAS THEN PLACED IN ONE OF THE HOLDING CAGES INSIDE  
 13 THE HEALTH ANNEX BY THE "JOHN DOE" CORRECTIONAL OFFICER.  
 14 16.) SHORTLY AFTER ASSAULT PLAINTIFF LATER LEARNED SOME INMATES  
 15 HAD WITNESSED AND HEARD THE COMMOTION OF THE ASSAULT, AS THERE  
 16 WAS ~~A~~ ADDITIONAL ADJACENT HOLDING ROOMS, TO THE PROXIMITY  
 17 OF WHERE THE ASSAULT TOOK PLACE. (ATTACHED HERE TO AS EXHIBIT).  
 18 17.) PLAINTIFF BEGAN YELLING OUT TO THE DEFENDANTS TO CUT THE FLEX-  
 19 CUFFS OFF HIS WRISTS DUE TO THEIR BEING PLACED SO TIGHT THEY HAD CUT  
 20 OFF CIRCULATION TO HIS HANDS; BUT TO NO AVAIL PLAINTIFF'S PLEADING'S WERE  
 21 IGNORED.  
 22 18.) A FEW HOURS PASSED UNTIL PLAINTIFF WAS FINALLY RELEASED FROM THE FLEXCUFFS AND TREATED  
 23 FOR HIS INJURIES. (ATTACHED HERE TO AS EXHIBIT).  
 24 19.) PLAINTIFF WAS THEN HOUSED IN D2-AD-SEG #111, AND FIVE DAYS LATER WAS PULLED OUT OF  
 25 HIS CELL FOR A "VIDEOTRACKER INTERVIEW" BY A LT. BARROGA. ON THE VIDEO IT CLEARLY SHOWS  
 26 PLAINTIFF'S INJURIES CAUSED BY ABOVE SAID DEFENDANTS.  
 27 I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE STATE OF CALIFORNIA THAT THE  
 28 ~~FOREGOING~~ IS TRUE AND CORRECT. EXECUTED AT CORCORAN CALIFORNIA ON 10/10/2008  
John Rojas  
John Rojas

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICTEXHIBIT  
JAHIR ALBERTO ROJAS

PLAINTIFF

V

OF R. LOZA, J. SANDOVAL

DEFENDANTS

: DECLARATION

: BUD PHINEAS

: CIVIL Action No.

BUD PHINEAS HERE BY DECLARIES: THAT ON OR ABOUT THE DATE OF 2-12-07, I WAS IN SALINAS VALLEY STATE PRISON C YARD HEALTH ANNEX/Hobby Shop WHEN I SEEN THE AFFOREMENTED DEFENDANTS ASSAULTING PLAINTIFF ROJAS. WHILE PLAINTIFF WAS UNDER RESTRAINTS (PLASTIC FLEX CUFFS) I WAS IN A HOLDING CAGE THAT WAS FACING DIRECTLY ACROSS A OFFICE NEXT TO THE OFFICE IS A WHITE WALL THAT WAS ALSO IN MY VIEW. THAT'S WHERE I SEEN DEFENDANTS RAM PLAINTIFF UNTO, AND BEGAN STRIKING PLAINTIFF WITH THEIR FISTS TO PLAINTIFF'S UPPER TORSO. ALTHOUGH MY VIEW WAS LIMITED WHEN PLAINTIFF WAS SWINGING TOWARDS THE LEFT OF MY VIEW BY DEFENDANTS, I HEARD FURTHER COMMOTION FROM THE ASSAULT. I SEEN AN ADDITIONAL 40 (CORRECTIONAL OFFICER) COME INTO VIEW, THEN MOVE OUT TO THE LEFT OF MY VIEW. ALSO HEARD SOMEONE YELL OUT "NOT RIGHT HERE STUPID MOTHERFUCKERS" DO NOT KNOW WHO, DUE TO THE AFFOREMENTED PEOPLE WERE BY THAT TIME OUT OF MY RANGE OF SIGHT.

I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT EXECUTED AT SOLEDAD CALIFORNIA

[ 07 ]

~~SIGNATURE~~

EXHIBIT: H

EXHIBIT

STATE OF CALIFORNIA

DEPARTMENT OF CORRECTIONS

MEDICAL REPORT OF INJURY  
OR UNUSUAL OCCURRENCE

NAME OF INSTITUTION <i>SVSP</i>	FACILITY/UNIT <i>Charlie</i>	REASON FOR REPORT (circle)	INJURY	ON THE JOB INJURY	DATE <i>2/10/07</i>
		USE OF FORCE	UNUSUAL OCCURRENCE	PRE AD/SEG ADMISSION	
THIS SECTION FOR INMATE ONLY	NAME LAST <i>ROJAS</i>	FIRST	CDC NUMBER <i>1258734</i>	HOUSING LOC. <i>05-204</i>	NEW HOUSING LOC.
THIS SECTION FOR STAFF ONLY	NAME LAST	FIRST	BADGE #	RANK/CLASS	ASSIGNMENT/RDOs
THIS SECTION FOR VISITOR ONLY	NAME LAST	FIRST	MIDDLE	DOB	OCCUPATION
	HOME ADDRESS	CITY	STATE	ZIP	HOME PHONE

PLACE OF OCCURRENCE  
*2/10/07*DATE/TIME OF OCCURRENCE  
*02-10-07*

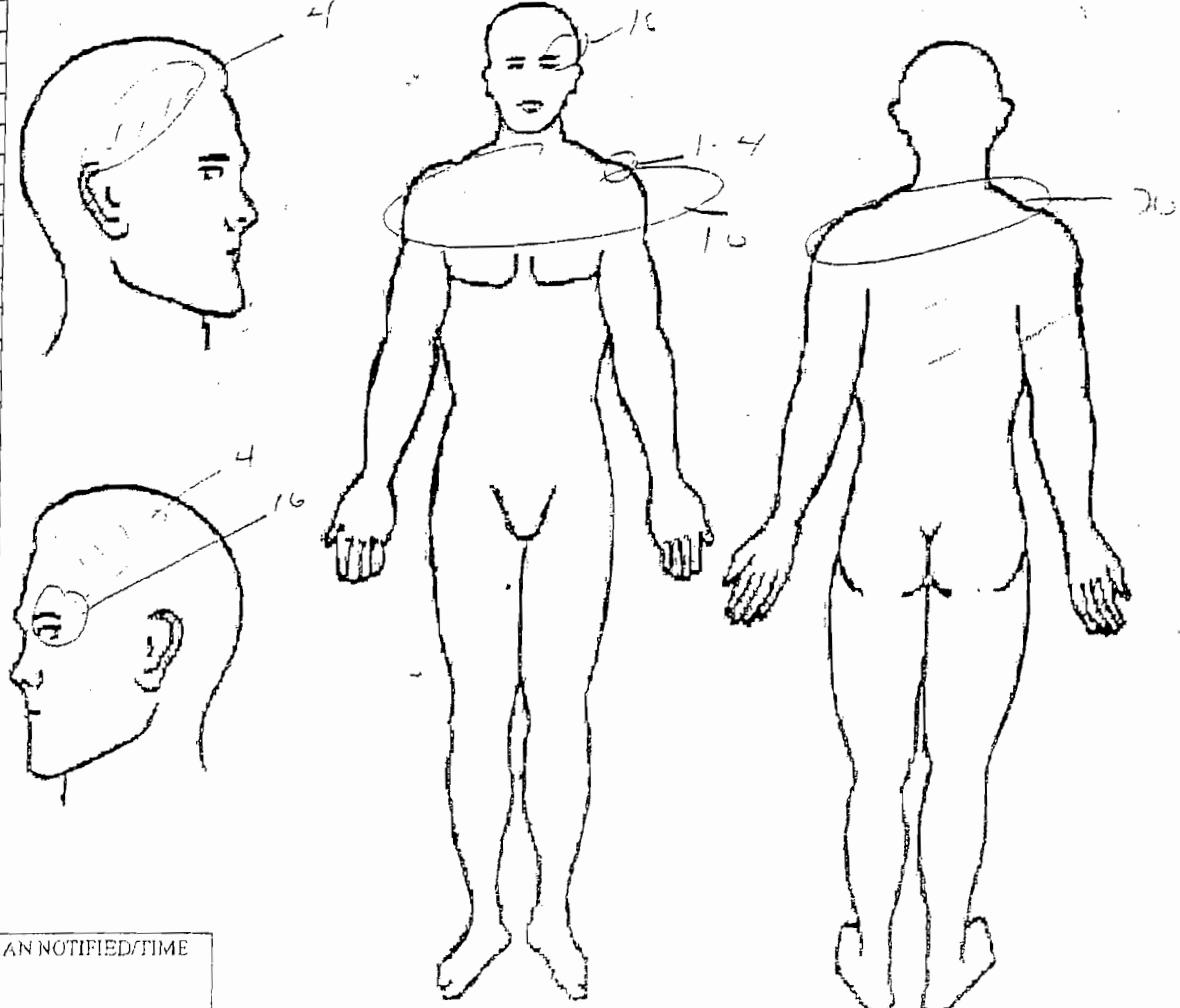
NAME OF WITNESS(ES)

TIME NOTIFIED <i>1830</i>	TIME SEEN <i>1830</i>	ESCORTED BY <i>-</i>	MODE OF ARRIVAL (circle)	LITTER	WHEELCHAIR	AGE <i>25</i>	RACE <i>1+</i>	SEX <i>M</i>
				AMBULATORY	ON SITE			

BRIEF STATEMENT IN SUBJECT'S WORDS OF THE CIRCUMSTANCES OF THE INJURY OR UNUSUAL OCCURRENCE

*RCOT - first aid given - plug is equal to portfire - to body -*

INJURIES FOUND? YES / NO	
Abrasion/Scratch	1
Active Bleeding	2
Broken Bone	3
Bruise/Discolored Area	4
Burn	5
Dislocation	6
Dried Blood	7
Fresh Tattoo	8
Cut/Laceration/Slash	9
O.C. Spray Area	10
Pain	11
Protrusion	12
Puncture	13
Reddened Area	14
Skin Flap	15
Swollen Area	16
Other	17
	18
	19



O.C. SPRAY EXPOSURE? YES / NO

DECONTAMINATED? YES / NO

Self-decontamination instructions given? YES / NO

Refused decontamination? YES / NO

Q 15 min. checks

Staff issued exposure packet? YES / NO

RN NOTIFIED/TIME <i>2/10/07</i>	PHYSICIAN NOTIFIED/TIME
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TIME/DISPOSITION

REPORT COMPLETED BY/TITLE (PRINT AND SIGN)

*WSP**WSP*

BADGE #

*10**10**10*